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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,777	04/24/2001	Philip Shi-lung Yu	101.016	5028
48175	7590	03/11/2005	EXAMINER	
BMT/IBM FIVE ELM STREET NEW CANAAN, CT 06840			LESNIEWSKI, VICTOR D	
		ART UNIT		PAPER NUMBER
		2155		

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/840,777	YU ET AL.
	Examiner	Art Unit
	Victor Lesniewski	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 01 November 2004.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-41 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-41 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. The amendment filed 11/1/2004 has been placed of record in the file.
2. Claim 12 has been amended.
3. Claims 1-41 are now pending.
4. The applicant's arguments with respect to claims 1-41 have been fully considered but they are not persuasive. A detailed discussion is set forth below.

### ***Response to Amendment***

5. Claim 12 has been amended to correct a typographical error in the claim. The amendment does not prove a change in scope to the limitations of claim 12.

### ***Response to Arguments***

6. Claims 1-41 remain rejected under 35 U.S.C. 102(b) as being anticipated by Kail, IV (U.S. Patent Number 5,959,529), hereinafter referred to as Kail.
7. In the remarks, the applicant has argued:
  - <Argument 1>

Kail does not disclose the features of claim 1 because he does not disclose "acquiring from a network a plurality of sensor measurements associated with a location, wherein the identified plurality of sensor measurements are measurements obtained by a plurality of entities" as recited in claim 1.
8. In response to argument 1, Kail does disclose the limitations as recited in claim 1. The previous line citations for this part of claim 1 (column 8, lines 12-16 and column 6, lines 11-21)

clearly show acquiring data over the network from a portable monitoring unit that maintains sensor measurements from sensors 28. Although Kail's system may contain multiple portable monitoring units at different locations, it is clear that each portable monitoring unit 12 maintains multiple sensors 28. See figure 1. For clarification the applicant is also directed to column 2, lines 22-27 and column 9, lines 26-32, which discuss specific representative sensors for each portable monitoring unit.

9. Furthermore, the applicant has admitted that Kail's system has disclosed multiple sensors for a single location when making such statements as "The number of sensors 28, including internal sensor 28a and external sensor 28b, associated with a particular subject (or subject location) are collectively associated with a single, common portable monitoring unit 12" and "Each particular subject (location) monitored by a portable monitoring unit in Kail has one or more sensors associated therewith."

10. The applicant's statement that "Kail does not disclose or suggest associating sensors from a plurality of separate and distinct portable monitoring units (i.e., entities) with a single subject (location)" is irrelevant as it has been shown that Kail does teach associating a plurality of sensors with a single subject or location. Each sensor can clearly be regarded as an entity that obtains measurements. In the same way, the applicant's statements in regard to interpreting Kail in such a way that would teach away from Kail's objective of monitoring the status of a subject, are also irrelevant when taking into consideration the ability of Kail's system to obtain a plurality of measurements from a plurality of sensors attached to a single subject.

11. Regarding the discussion of "the location" as recited in claim 1, it appears that the applicant's arguments may relate to figure 5 of the present application in forming a concept of

the meaning of “the location” in the claims. It could be beneficial for the applicant to recite in claim 1 a more specific delineation of the term “location” according to this figure and the supporting specification. More specific terminology relating to particular identification information of a location in claim 1 may distinguish the applicant’s invention over Kail. The applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. In addition, the applicant has argued that claims rejected under 35 U.S.C. 102, but not explicitly discussed, are allowable based on the above arguments. Thus, claims disclosing similar limitations to the discussed claims and related dependent claims remain rejected under the same reasoning as presented above.

### *Conclusion*

13. **THIS ACTION IS MADE FINAL.** The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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